

CPM PROJECT



**A Proposed Training Guide for New Regulatory Specialists
In the Office of Child Care Licensing and Regulatory
Services**

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Introduction

The Office of Child Care Licensing and Regulatory Services, which is located at the South Carolina Department of Social Services (DSS), within the Division of Child Care Services, is assigned the responsibility for the regulation of child care facilities. The South Carolina Child Care Licensing Law of 2007 defines the duties of government necessary to safeguard children in care in places other than their own homes. This law aids in establishing statewide minimum regulations for the care and protection of children in child care facilities, in order to ensure maintenance of these regulations and to approve administration and enforcement to regulate conditions in such facilities. It is the policy of the State to ensure protection of children under care in childcare facilities, and to encourage the improvement of childcare programs.¹

The Office is composed of a central office in Columbia, with a director, two program managers, three program coordinators, a fire consultant, and three (3) administrative assistants. There are also four regional offices which are Region I- Greenville, Region II- Columbia, Region III- Charleston and Region IV- Florence, South Carolina. The central office consults with the four regional offices to set program policy and procedures. This office also coordinates the receipt and transfer of licensing and child abuse central registry check fees collected by the regional offices, which are then documented and transferred to the Finance Division of the Agency. In addition, the central office also

¹ Child Care Licensing Law, Attachment A, p.4

coordinates supply orders for all licensing offices, handles specific service inquiries from current providers and the general public, and makes appropriate referrals to other sections of DSS or to other state agencies as needed.

Each regional office is headed by a Regional Supervisor, with a staff composed of an administrative assistant and, when fully staffed, ten regulatory specialists. The operating permits (licenses, approvals, registrations) which authorize facilities to care for children are issued from the regional offices. The regulatory specialists are the front line workers who provide the primary enforcement of the child care regulations. The specialists primarily perform this function by:

- (a) Approving operating permits for new facilities
- (b) Conducting renewal, complaint and supervisory visits
- (c) Initiating actions to deny or revoke operating permits when facilities do not comply with the regulations.
- (d) Participating in any appeal hearings that may result from denials or revocations.

The job requires specialists who are flexible, well-trained and have an eye for detailed observation. Specialists must also be thorough in their documentation of any deficiencies cited, corrections noted, and any actions taken. This CPM project is an attempt to develop a process improvement of a consistent training program for newly hired regulatory specialists.

Purpose of the Project

The goal of this project is to assist newly hired regulatory specialists in having a clear understanding of the range of actions which may be applied to encourage compliance with licensing regulations by the facilities, thereby helping to protect the children in care. When facilities are not in compliance, the specialist is required to issue citations denoting each deficiency, along with the applicable sections of the law or regulations, and a specified time period for the correction of the deficiency. The specialist is also required to assist the facility in making the necessary corrections by offering technical assistance or referrals to other entities.

Problem Statement

Though training does not fix all of a worker's shortcomings, it is an essential element in the development of the skills required to adequately do the job. There have been instances where the Agency has attempted to revoke a regulatory permit after several citations, and has been unable to do so because Legal representatives felt that procedures were not consistently followed, or sufficient actions were not taken to assist the facility to become compliant prior to seeking revocation. The objective of this project is to investigate whether a standardized training program for newly hired Licensing Specialists will aid in establishing consistent enforcement of the child care regulations and laws.

Data Collection

In order to determine if the current training program is sufficient, I originally sent an email requesting information from nine (9) or 22% of the forty (40) current regulatory specialists describing the specific steps they use in performing their particular job tasks (See Attachment D). Six (6) or 67% of the nine (9) specialists responded to the request. There were two (2) responses respectively from Regions I-Greenville, Region III-Charleston, and one (1) response each from Region-II-Columbia, and Region IV-Florence. Recommendations were taken from each of the four supervisors in choosing two (2) to three (3) experienced specialists who are proficient in performing the tasks required. Though each region has ten regulatory specialist slots, there is often a high rate of turn over, caseloads are inherited from previous workers, and many of the specialists are at various levels of experience. The workers chosen were, in the opinion of their supervisors, among the most qualified in terms of their ability to perform the required visits, accurately document their findings, prepare correspondence to the facilities, and conduct follow up visits to correct any previously identified problems. The training guide will use information from the National Organization for Regulatory Administration (NARA) Curriculum Guide, year 2000, and the Office of Child Licensing Online Operations Manual which assists staff in following the correct policies and procedures. I will also use information directly from specialists who perform the tasks, to outline the steps needed to complete an initial application for a regulatory permit, a renewal visit, a supervisory visit, and the handling of a regulatory complaint. The regulatory specialist, who has a combination of specific educational requirements and work experience in a child care setting, is generally familiar with the process of licensing.

The supervisors have indicated that new regulatory specialists usually use their first two weeks of employment to become familiar with the South Carolina Child Care Licensing Law and the various types of specific facility regulations. The simplest set of regulations is the one for the Registered Family Homes. This type of facility is the one with the least regulation per state requirements. Specialists should be able to familiarize themselves with these regulations and case examples of this type within one to three days. Specialists should then be introduced to the Group Child Care Home and Child Care Center regulations in order to learn the differences in requirements for these types of facilities. The supervisor shall work with the new specialist to introduce the phases of the job at increments which the new employee can comfortably grasp. The new employee should also shadow experienced staff members in order to get a “feel” for the requirements of the job, and then be allowed to perform tasks under supervisory observation. When the supervisor feels that the worker is ready, he/she should then begin to perform these tasks independently.

Phases of Licensing

There are several phases of the process which the Office of Child Care Licensing uses to ultimately make a decision on the licensing of an individual facility. The National Association of Regulatory Administration (NARA) defines the phases of the licensing process as the initial inquiry, the application, the inspection, the license issuance decision, compliance monitoring, and renewal.² The Office of Child Care Licensing uses its own terminology to describe these particular operations, but performs each of these actions in completing the licensing process. (See attachment D)

² NARA Licensing Curriculum, 2000 Edition, Chapter 3, page 3, Attachment B.

A group of cases staffed by the Child Care Action Team composed of staff members from Child Care Licensing, the ABC Voucher Program (responsible for payments to providers to care for low income children to help them obtain quality childcare), and the Child and Adult Food Program, were chosen to research any differences in policy interpretation, or program practices. Cases in which program determinations had been made were reviewed for the sample. A total of five (5) cases which resulted in negative actions to the provider (denial of the application or revocation of the license) were reviewed along with five (5) cases in which the efforts of the programs resulted in the successful issuance of a license were also studied. The cases chosen were all child care centers, which provide care for the greater number of children per setting, and also require more interaction from the Licensing staff in the form of required licensing renewals, supervisory visits, complaint visits, and any follow up visits which the worker and/or supervisor may deem necessary to verify correction of any cited deficiencies.

Data Analysis

The Cases chosen for the sample were as follows:

Closures or Revocations

I. Case 1: Child Care Center, Region I

The Region made a total of ten visits to the center over the course of 2007 and 2008 in an attempt to correct previous deficiencies which had been cited during the visit to renew the facility's license, as well as deficiencies resulting from a reported complaint. Numerous new deficiencies which threatened the health and safety of the children were discovered during follow up visits and supervisory visits which were conducted over a one year period in order to correct deficiencies. The facility failed to correct these deficiencies.

This led to the facility being placed on a corrective action plan, which is an agreement between the Office and the facility, for correction of particular deficiencies, with specified timeframes for correction. It was not followed by the facility, leading to the issuance of a final warning letter, and eventually to revocation of the facility's license. The facility appealed the Region's decision. An appeal hearing was held in November 2008, and the Appeals Committee upheld the decision of the Region.

II. Case 2: Child Care Center, Region II

Five visits were made to this center in order to correct cited deficiencies such as lack of supervision of the children and insufficient numbers of staff on duty to supervise the number of children in care. The facility engaged in hiring staff without conducting the proper background checks, failure to maintain the cleanliness of the facility, and failed to have the necessary emergency person available. The facility was given numerous opportunities to correct the deficiencies cited, was placed on a corrective action plan which they violated, and was given a final warning letter. The facility failed to correct the deficiencies, and the Region requested revocation of the facility's license. The facility appealed the decision but it was upheld in favor of the Region in December of 2008.

III. Case 3: Child Care Center, Region III

This center was cited for numerous health and safety deficiencies, not having sufficient staff on site to supervise the number of children in care, failure to provide required training hours for staff and the director, and failure to correct deficiencies which were cited by the State Health Department. All deficiencies were in conjunction with the renewal of the facility's license. Eight visits were made to this facility in an attempt to correct the deficiencies. The facility failed to make the necessary corrections, thus

leading the region to deny the application for the renewal of the facility's license. The facility requested an appeal, but decided to close before the hearing.

IV. Case 4: Child Care Center-Region I

The center had a history of not having a sufficient ratio of caregivers to the number of children in care. They were also cited several times for a lack of supervision of the children in care and having caregivers without the required background checks.

Numerous visits were made to the center in order to correct the cited deficiencies. The facility failed to correct the deficiencies, was placed on a corrective action plan which it violated, and the region requested revocation of the facility's license. The center requested an appeal but later withdrew its request and closed in January 2009.

V. Case 5: Child Care Center-Region II

The center had numerous deficiencies for inadequate staff to child ratios, sanitation deficiencies which remained uncorrected, and incomplete records for staff members. After several attempts at correction, the region revoked the facility's license, and the decision was upheld on appeal. (For actual facility names, see Attachments E and F)

Facilities Brought into Compliance

I. Case A: Child Care Center-Region III

The center delayed in furnishing the information necessary to complete the renewal process for a license. The regulatory staff made several visits to correct deficiencies at the center and after discussing with the center the importance of returning information timely, being compliant with child staff ratio requirements and correcting deficiencies cited by the State Fire Marshal's Office, the facility submitted the required information and corrected the deficiencies necessary to be issued a license.

II. Case B: Child Care Center –Region III

The facility had problems with broken equipment and broken toys in the center.

Caregivers failed to properly wash their hands after changing children's diapers and the facility failed to submit paperwork in a timely fashion for caregivers in the facility. The region made several visits to follow up on deficiencies and offered technical assistance to a new director who was hired to manage the facility. The license renewal was successfully completed and a license was issued.

III. Case C: Child Care Center- Region II

The Center had problems with supervising the children and there were several playground deficiencies where equipment was in need of repair. Citations for leaving children unattended in the classroom were issued. Staff made several follow up visits and offered technical assistance to assist the facility to be in compliance. The facility succeeded in correcting deficiencies and was issued a license.

IV. Case D: Child Care Center-Region III

The center was cited for not having the required staff to supervise the number of children in care. The facility also did not submit the required paperwork on caregivers in the facility and had sanitation deficiencies which needed correction. The facility employed a new director; therefore staff from Child Care Licensing made follow up visits to provide technical assistance to the facility and follow up on correction of the deficiencies. The facility came into compliance and was issued a license.

V. Case E: Child Care Center-Region IV

The center's license had expired and failed to complete its health and fire inspections in a timely manner. There were also numerous procedural deficiencies in the center which

were cited by the Licensing staff. The Licensing staff conducted numerous follow up visits to the center to correct deficiencies, provide technical assistance to the facility and bring them into compliance with the regulations. The facility succeeded in obtaining its license. (For actual facility names, see Attachments G and H)

From the information gathered, cases reviewed, and case determinations made, it appears that there are only minor differences in the ways that specialists are trained to do their job functions. The regions appear to be consistent in the ways that visits are scheduled, in the ways information is gathered in doing the various licensing and complaint visits, and the ways in which citations are issued, letters are written, and follow-up visits are scheduled, etc. The differences appear to be the ways in which policies are applied and the points at which each regional office attempts to take more serious case actions such as problem conferences, corrective action plans, final warning letters, requests for denial of the application, or revocation of the operating permit. Though each case situation is different, steps are in the policy manual which allow for action when facilities do not comply with the law and regulations. Several of the cases on the list of closed facilities had been cited on more than three occasions for serious violations of staff to child ratio, lack of supervision or employing unqualified staff, due to the center's not completing the required background checks prior to hiring an employee. The Child Care Licensing Operations Manual offers definitions of "willful" and "continual" noncompliance.³ The facilities seemed to be willfully noncompliant meaning that the facility was consciously aware that it was not following the regulations. The facilities were continually noncompliant as these events often occurred three times within a six month period.

³ Child Care Regulatory Services Online Operating Manual,
<http://childcare.sc.gov/main/docs/ccLicenseMan/15.pdf> p2

When either of these conditions exists, the Region should staff the case with the Central Office. The staffing process involves a call by the Regional Supervisor to the Central Office where the case situation is discussed with one or both program managers and a program coordinator to arrive at a case decision. The decision is then forwarded to the Director of the Central Office for approval. Depending upon the agreed upon decision, the director of the facility may be called in for either a conference, or, to sign a corrective action plan. These actions should be taken so that the children in care are not exposed to additional risk of injury. The seriousness of the problems which exist at the facility is communicated quickly, and corrections to the deficiencies cited are made in an expeditious manner. The supervisors and licensing staff have discretion to work with facilities when they are clearly attempting to make the necessary corrections as the Division does not wish to unnecessarily inconvenience parents and the children in care by seeking to close the family's preferred child care facility if the facility can come into compliance. The research indicates that the areas in which child care facilities seem to have the most deficiencies are maintaining adequate staff to supervise the ratios of children in their care, employing workers without completing the required background checks, and not making timely repairs to equipment within the facility when needed. The factors leading to these conditions appear to be low pay coupled with high turnover of workers. The perceived need to have "bodies on- site" rather than lose business and the fact that many facilities are not owned by the persons directing the programs also appear to be causes. Unless there is sufficient financial backing, repairs in the facilities often go unperformed. The specialist and supervisor must balance the need to regulate with allowing reasonable time to make necessary corrections.

From the data that I was able to gather, it appears that continual updating of the policy manual as new situations arise, along with constant communication between the Regional Offices, Central Office Personnel, and, when deemed necessary, representatives of the Agency's General Counsel's Office serve to make the operations of the Licensing Division more efficient. Training of the specialists on the updated changes in a timely manner is essential. The five cases which were closed appear to show that thorough documentation, case preparation, timely advice from the Agency's legal representatives have placed the Division in a position to make valid case decisions which can be defended in appeal.

Implementation Plan

In my present position I do not have the authority to implement any changes in the Division's training process. It appears that supervisors and Central Office personnel are adequately preparing specialists to do the work required by the Division and a large scale revamp of a training program is not required. The data suggests that job aids would be helpful. These job aids would emphasize being able to recognize the required documents which should be on file at the facility for staff records, such as state and federal fingerprint information, checks of the child abuse and sex offender registries, health assessments, verification of the required education and experience working in a child care facility. The job aids could also concentrate on the information required for children's files and the required ratios of staff members to children in classrooms of various age groups. The Director of Child Care Licensing or the Director of Child Care Services would be in the position implement any recommendations.

Evaluation Method/Recommendations

The Office has a regular policy committee meeting where Central Office personnel, regional supervisors, and a group of specialists representing all four regions regularly meet to discuss and agree on changes on policy and procedures for completing required tasks. The changes are then referred to Legal for approval, and placed on the Agency's website so that they will be available for view by the public. Any training is done by members of the Office of Licensing as there have not been funds available for outside trainers. The Agency's Administration will have to make decisions on which training is required and the methods of evaluation.

The Office of Child care Licensing is also converting to a computer system, which when completed, will automate all casework functions. If the reporting system can be programmed to capture totals of all types and numbers of deficiencies cited, numbers of facilities closed or revoked, numbers of licenses issues and cases closed the Agency may be able to track data to determine where training should be concentrated.

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Licensing Curriculum, NARA 2000

National Association for Regulatory Administration, Lexington, Kentucky

ATTACHMENT

A

CHILD CARE LICENSING LAW

**South Carolina Code of Laws
Title 20 – Domestic Relations
CHAPTER 7
CHILDREN'S CODE
ARTICLE 13
ADMINISTRATIVE PROVISIONS OF CHILDREN'S SERVICE AGENCIES
SUBARTICLE 11
CHILDCARE FACILITIES**

SECTION 20-7-2700. Definitions.

For the purpose of this subarticle:

a. "Childcare" means the care, supervision, or guidance of a child or children, unaccompanied by the parent, guardian, or custodian, on a regular basis, for periods of less than twenty-four hours per day, but more than four hours, in a place other than the child's or the children's own home or homes.

b. "Childcare facilities" means a facility which provides care, supervision, or guidance for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to, day nurseries, nursery schools, childcare centers, group childcare homes, and family childcare homes. The term does not include:

(1) an educational facility, whether private or public, which operates solely for educational purposes in grade one or above;

(2) five-year-old kindergarten programs;

(3) kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age;

(4) facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where the same children are cared for less than four hours a day and not on a regular basis as defined in this subarticle while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and immediately available; however, these facilities must meet local fire and sanitation requirements and maintain documentation on these requirements on file at the facility available for public inspection;

(5) school vacation or school holiday day camps for children operating in distinct sessions running less than three weeks per session unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three weeks;

(6) summer resident camps for children;

(7) bible schools normally conducted during vacation periods;

(8) facilities for the mentally retarded provided for in Chapter 21, Title 44;

(9) facilities for the mentally ill as provided for in Chapter 17, Title 44;

(10) childcare centers and group childcare homes owned and operated by a local church congregation or an established religious denomination or a religious college or university which does not receive state or federal financial assistance for childcare services; however, these facilities must comply with the provisions of Sections 20-7-2900 through 20-7-2975 and that these facilities voluntarily may elect to become licensed according to the process as set forth in Sections 20-7-2700 through 20-7-2780 and Sections 20-7-2980 through 20-7-3090.

c. "Public childcare facility" means a facility as defined under item b of this section which was created and exists by act of the State, or a county, city or other political subdivision, whose operation remains under the tutelage and control of a governmental agency.

d. "Private childcare facility" means a facility as defined under item b. of this section which is not a public childcare facility, and which is able to be further classified as follows:

(1) "Entrepreneurial childcare facility" means a facility whose childcare operator may receive public assistance funds directly or indirectly but which is managed as a profit-making business enterprise and whose corporation or private ownership is liable for payment of federal and state income taxes on profits earned by the facility.

(2) "Nonprofit childcare facility" means a facility whose childcare operator may receive public assistance funds directly or indirectly but which is operated under the tutelage and control of a nonprofit or eleemosynary corporation, foundation, association, or other organization whose ownership may or may not be liable for payment of federal and state income taxes on profits earned by the facility.

e. "Childcare center" means any facility which regularly receives thirteen or more children for childcare.

f. "Group childcare home" means a facility within a residence occupied by the operator which regularly provides childcare for at least seven but not more than twelve children, unattended by a parent or a legal guardian including those children living in the home and children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family or only for a combination of these children is not a group childcare home.

g. "Family childcare home" means a facility within a residence occupied by the operator in which childcare is regularly provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family or only for a combination of these children is not a family childcare home.

h. "Childcare operator" means the person, corporation, partnership, voluntary association, or other public or private organization ultimately responsible for the overall operation of a childcare facility.

i. "Caregiver" means any person whose duties include direct care, supervision, and guidance of children in a childcare facility.

j. "Minor child" means a person who has not reached the eighteenth birthday.

k. "Department" means the State Department of Social Services, the agency designated to administer the regulation of childcare facilities under this subarticle, with the advice of the State Advisory Committee on the Regulation of Childcare Facilities.

l. "Committee" means the State Advisory Committee on the Regulation of Childcare Facilities, named under this subarticle to advise the department on regulatory matters related to childcare facilities.

m. "Director" means the administrative head of the department.

n. "Regularly, or on a regular basis": these terms refer to the frequency with which childcare services are available and provided at a facility in any one week; these terms mean the availability and provision of periods of daycare on more than two days in such week.

o. "Related" means any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin of the first degree.

p. "Regular license" means a license issued by the department for two years to an operator of a private childcare center or group childcare home or a family childcare home which elects to be licensed showing that the licensee is in compliance with the provisions of this subarticle and the regulations of the department at the time of issuance and authorizing the licensee to operate in accordance with the license, this subarticle, and the regulations of the department.

q. "Provisional license" means a license issued by the department to an operator of a private childcare center or group childcare home or a family childcare home which elects to be licensed authorizing the licensee to begin operations although the licensee temporarily is unable to comply with all of the requirements for a license.

r. "Regular approval" means a written notice issued by the department for a two-year period to a department, agency, or institution of the State, or a county, city, or other political subdivision, approving the operation of a public childcare center or group childcare home in accordance with the provisions of the notice, this subarticle, and the regulations of the department.

s. "Provisional approval" means a written notice issued by the department to a department, agency, or institution of the State, or a county, city, or other political subdivision approving the commencement of the operations of a public childcare center or group childcare home although the operator is temporarily unable to comply with all of the requirements for approval.

t. "Registration" means the process whereby childcare centers and group childcare homes owned and operated by a church or a publicly recognized religious educational or religious charitable institution are regulated under this subarticle and the process whereby all family childcare homes are regulated under this subarticle.

u. "Declaratory order" means a written statement on the part of the department approving plans for construction or renovation ensuring against the imposition of more stringent regulations at a later date.

v. "Renewal" means in regard to childcare centers and group childcare homes, to grant an extension of a regular license or regular approval for another two-year period provided an investigation of such facilities verifies that they are in compliance with the applicable regulations, in regard to family childcare homes, to place the name of the operator on the registration list for another year provided procedures indicated in this subarticle have been completed.

w. "Revocation" means to void the regular license of a childcare center or group childcare home.

x. "Deficiency correction notice" means a written statement on the part of the department notifying a childcare facility which is not complying with any applicable regulations to correct the deficiencies stated in the notice within a reasonable time limit.

y. "Complaint" means a written statement reporting unsatisfactory conditions in a childcare facility.

z. "Curriculum" means and includes design of courses, teaching philosophy, methods, and activities.

aa. "Summer resident camp for children" means a twenty- four-hour residential program offered during the summer that provides recreational activities for children.

bb. "Summer day camp for children" means a program offered during the summer that provides recreational activities primarily during daytime hours throughout the period of the program and may include an occasional overnight activity under the supervision of the operator.

cc. "Infant" means a child age twelve months or younger for the purposes of this chapter.

SECTION 20-7-2710. Purpose.

a. The intent of this subarticle is to define the regulatory duties of government necessary to safeguard children in care in places other than their own homes, ensuring for them minimum levels of protection and supervision. Toward that end, it is the purpose of this subarticle to establish statewide minimum regulations for the care and protection of children in childcare facilities, to ensure maintenance of these regulations and to approve administration and enforcement to regulate conditions in such facilities. It is the policy of the State to ensure protection of children under care in childcare facilities, and to encourage the improvement of childcare programs.

b. It is the further intent of this subarticle that the freedom of religion of all citizens is inviolate. Nothing in this subarticle shall give any governmental agency jurisdiction or authority to regulate, supervise, or in any way be involved in any Sunday school, Sabbath school, religious services or any nursery service or other program conducted during religious or church services primarily for the convenience of those attending the services. ¹

c. Nothing in this subarticle shall create authority for the Department of Social Services to influence or regulate the curriculum of childcare facilities.

SECTION 20-7-2720. Application of the law; private centers and homes.

No person, corporation, partnership, voluntary association, or other organization may operate a private childcare center or group childcare home unless licensed to do so by the department.

SECTION 20-7-2725. Childcare center employment.

(A) No childcare center, group childcare home, family childcare home, or church or religious childcare center may employ a person or engage the services of a caregiver who is required to register under the sex offender registry act pursuant to Section 23-3-430 or who has been convicted of:

(1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A), except that this prohibition does not apply to Section 56-5-2930, the Class F felony of driving under the influence pursuant to Section 56-5-2940(4) if the conviction occurred at least ten years prior to the application for employment and the following conditions are met:
 - (a) the person has not been convicted in this State or any other state of an alcohol or drug violation during the previous ten-year period;
 - (b) the person has not been convicted of and has no charges pending in this State or any other state for a violation of driving while his license is canceled, suspended, or revoked during the previous ten-year period; and
 - (c) the person has completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency.

A person who has been convicted of a first-offense violation of Section 56-5-2930 must not drive a motor vehicle or provide transportation while in the official course of his duties as an employee of a childcare center, group childcare home, family childcare home, or church or religious childcare center.

If the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56-5-2930 or for a violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, the person's employment must be terminated;

- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit employment or provision of caregiver services when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, an operator or the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment or to provide caregiver services.

(B) A person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or is a caregiver at a childcare center, group childcare home, family childcare home, or church or religious childcare center is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(C) Application forms for employment at childcare centers, group childcare homes, family childcare homes, or church or religious childcare centers must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or seeks to provide caregiver services or is a caregiver at a facility is guilty of a misdemeanor and, upon

conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(D) To be employed by or to provide caregiver services at a childcare facility licensed, registered, or approved under this subarticle, a person first shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. A person may be provisionally employed or may provisionally provide caregiver services after the favorable completion of the State Law Enforcement Division fingerprint review and until such time as the Federal Bureau of Investigation review is completed if the person affirms in writing on a form provided by the department that he or she has not been convicted of any crime enumerated in this section. The results of the fingerprint reviews are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing caregiver services in a childcare center, group childcare home, family childcare home, or church or religious childcare center; however, if a person is not employed or does not provide caregiver services for one year or longer, the fingerprint reviews must be repeated.

(E) Unless otherwise required by law, this section does not apply to volunteers in a childcare center, group childcare home, family childcare home, or church or religious childcare center. For purposes of this section, "volunteer" means a person who:

(1) provides services without compensation relating to the operation of a childcare center, group childcare home, family childcare home, or church or religious childcare center; and

(2) is in the presence of an operator, employee, or caregiver when providing direct care to children.

"Volunteer" includes, but is not limited to, parents, grandparents, students, and student teachers.

(F) Unless otherwise required by law, this section applies to:

(1) an employee who provides care to the child or children without the direct personal supervision of a person licensed, registered, or approved under this subarticle; and

(2) any other employee at a facility licensed, registered, or approved under this subarticle who has direct access to a child outside the immediate presence of a person who has undergone the fingerprint review required under this subarticle.

SECTION 20-7-2730. Issuance of license; private centers and homes.

(A) Application for license must be made on forms supplied by the department and in the manner it prescribes.

(B) Before issuing a license the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a private childcare center or group childcare home. If the results of the investigation verify that the provisions of this subarticle and the applicable regulations promulgated by the department are satisfied, a license must be issued. The applicant shall cooperate with the investigation and related inspections by providing access to the physical plant, records, excluding financial records, and staff. Failure to comply with the regulations promulgated by the department within the time period specified in this subarticle, if adequate notification of deficiencies has been made, is a ground for denial of application. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the childcare center or group

childcare home, including references and other information about the character and quality of the personnel.

(C) Each license must be conditioned by stating clearly the name and address of the licensee, the address of the childcare center or group childcare home, and the number of children who may be served.

(D) Failure of the department, except as provided in Section 20-7-3070, to approve or deny an application within ninety days results in the granting of a provisional license.

(E) No license may be issued to an operator who has been convicted of:

- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A);
- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit licensing when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(F) Application forms for licenses issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (E) who applies for a license as an operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(G) A person applying for a license as an operator under this section shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal.

(H) A person applying for a license as an operator under this section or seeking employment or seeking to provide caregiver services at a facility licensed under this section shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal unless the renewal coincides with employment of a new operator, employee, or caregiver.

SECTION 20-7-2735. Childcare center caregivers; educational and experience requirements.

(A) A caregiver who begins employment in a licensed or approved childcare center in South Carolina after June 30, 1994, must have at least a high school diploma or General Educational

Development (GED) and at least six months' experience as a caregiver in a licensed or approved childcare facility. If a caregiver does not meet the experience requirements, the caregiver must be directly supervised for six months by a staff person with at least one year experience as a caregiver in a licensed or approved childcare facility. Within six months of being employed, a caregiver must have six clock hours of training in child growth and development and early childhood education or shall continue to be under the direct supervision of a caregiver who has at least one year of experience as a caregiver in a licensed or approved childcare facility.

(B) A caregiver who has two years' experience as a caregiver in a licensed or approved facility and is employed as of July 1, 1994, in a licensed or approved childcare center in South Carolina is exempt from the high school diploma and General Educational Development (GED) requirements of subsection (A).

SECTION 20-7-2740. License renewal; private centers and homes.

(A) Regular licenses may be renewed upon application and approval. Notification of a childcare center or group childcare home regarding renewal is the responsibility of the department.

(B) Application for renewal must be made on forms supplied by the department in the manner it prescribes.

(C) Before renewing a license the department shall conduct an investigation of the childcare center or group childcare home. If the results of the investigation verify that the provisions of this subarticle and the applicable regulations promulgated by the department are satisfied, the license must be renewed. The licensee shall cooperate with the investigation and related inspections by providing access to the physical plant, records, and staff. Failure to comply with the regulations promulgated by the department within the time period specified in this subarticle, if adequate notification of deficiencies has been made, is a ground for revocation of the license. The investigation and inspections may involve consideration of any facts, conditions, or circumstances relevant to the operation of the childcare center or group childcare home.

(D) No license may be renewed for any operator who has been convicted of:

- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A);
- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit renewal when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator.

(E) Application forms for license renewals issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for a license renewal as operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) A licensee seeking license renewal under this section, its employees, and its caregivers, who have not done so previously, on the first renewal after June 30, 1995, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

(G) No facility may employ or engage the services of an employee or caregiver who has been convicted of one of the crimes listed in this section.

SECTION 20-7-2750. Deficiency correction notices; private centers and homes.

Whenever the department finds upon inspection that a private childcare center or group childcare home is not complying with any applicable licensing regulations, the department shall notify the operator to correct these deficiencies.

a. Every correction notice must be in writing and must include a statement of the deficiencies found, the period within which the deficiencies must be corrected and the provision of the subarticle and regulations relied upon. The period must be reasonable and, except when the department finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notice.

b. Within two weeks of receipt of the notice, the operator of the facility may file a written request with the department for administrative reconsideration of the notice or any portion of the notice.

c. The department shall grant or deny a written request within seven days of filing and shall notify the operator of the grant or denial.

d. In the event that the operator of the facility fails to correct deficiencies within the period prescribed, the department may revoke the license.

SECTION 20-7-2760. Notice of license denial, nonrenewal, etc.; hearings; appeals.

a. An applicant who has been denied a license by the department must be given prompt written notice by certified or registered mail. The notice shall indicate the reasons for the proposed action and shall inform the applicant of the right to appeal the decision to the director in writing within thirty days after the receipt of notice of denial. An appeal from the final decision of the director may be taken to an administrative law judge pursuant to the Administrative Procedures Act.

b. A licensee whose application for renewal is denied or whose license is about to be revoked must be given written notice by certified or registered mail. The notice must contain the reasons for the proposed action and shall inform the licensee of the right to appeal the decision to the director or his designee in writing within thirty calendar days after the receipt of the notice. An appeal from the final decision of the director may be taken to an administrative law judge pursuant to the Administrative Procedures Act.

c. At the hearing provided for in this section, the applicant or licensee may be represented by counsel and has the right to call, examine, and cross-examine witnesses and to otherwise

introduce evidence. Parents appearing at the hearing may also be represented by counsel. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or department. The final decision of the department must be in writing, must contain the department's findings of fact and rulings of law, and must be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise. A full and complete record must be kept of all proceedings, and all testimony must be reported but need not be transcribed unless the department's decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the department shall furnish to any appellant, free of charges, a certified copy of the transcript of all evidentiary proceedings before it. Other parties shall pay the cost of transcripts prepared at their request.

d. The decision of the department is final unless appealed by a party to an administrative law judge pursuant to the Administrative Procedures Act.

SECTION 20-7-2770. Register; private centers and homes.

Every childcare center or group childcare home shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.

SECTION 20-7-2780. License; private centers and homes.

a. Each childcare center or group childcare home shall maintain its current license displayed in a prominent place at all times and must state its license number in all advertisements of the childcare center or group daycare home.

b. No license may be transferred nor shall the location of any childcare center or group childcare home or place of performance of service be changed without the written consent of the department. The department shall consent to the change for a reasonable period of time when emergency conditions require it, so long as the new location or place of performance substantially conforms to state fire and health requirements.

c. Upon occurrence of death of a child on the premises of a childcare center or group childcare home in which the child is enrolled or while under the constructive control of the holder of the license of the facility, it is the responsibility of the holder of the license to notify the department within forty-eight hours and follow up with a written report as soon as the stated cause of death is certified by the appropriate government official.

SECTION 20-7-2790. Application of the law; public centers and homes.

Every operator or potential operator of a public childcare center or group childcare home must apply to the department for an investigation and a statement of standard conformity or approval, except those facilities designated in Section 20-7-2700.

SECTION 20-7-2800. Issuance of statement of approval; public centers and homes.

(A) Application for a statement of standard conformity or approval must be made on forms supplied by the department and in the manner it prescribes.

(B) Before issuing approval the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a public childcare center or group childcare home. If the results of the investigation verify that the provisions of the subarticle and the applicable regulations promulgated by the department are satisfied, approval must be issued. The applicant shall cooperate with the investigation and inspections by providing access to the physical plant, records, and staff. The investigation and related inspections may

involve consideration of any facts, conditions, or circumstances relevant to the operation of the childcare center or group childcare home, including references and other information about the character and quality of the personnel. If the childcare center or group childcare home fails to comply with the regulations promulgated by the department within the time period specified in this subarticle, if adequate notification regarding deficiencies has been given, the appropriate public officials of the state and local government must be notified.

(C) A person applying for approval under this section shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal.

(D) No approval may be granted under this section if the person applying for approval or the operator, an employee, or a caregiver of the facility has been convicted of:

- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A);
- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit approval when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited as an applicant or to be an operator, caregiver, or employee.

(E) Application forms for a statement of standard conformity or approval issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for approval is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) Application forms for a statement of standard conformity or approval issued under this chapter by the department and application forms for employment at individual public childcare centers or group childcare homes must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

SECTION 20-7-2810. Approval renewal; public centers and homes.

(A) Regular approvals may be renewed upon application and approval. Notification of a childcare center or group childcare home regarding renewal is the responsibility of the department.

(B) Application for renewal must be made on forms supplied by the department and in the manner it prescribes.

(C) Before renewing an approval the department shall conduct an investigation of the childcare center or group childcare home. If the results of the investigation verify that the provisions of this subarticle and the applicable regulations promulgated by the department are satisfied, the approval must be renewed. The operator shall cooperate with the investigation and related inspections by providing access to the physical plant, records, and staff. If the operator's statement of approval cannot be renewed, the appropriate public officials must be notified.

(D) A person applying for approval renewal under this section, a person who will operate the facility, and its employees and caregivers, who have not done so previously, on the first approval renewal after June 30, 1995, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

No approval may be renewed under this section if the person applying for renewal, the operator of the facility, or an employee or a caregiver has been convicted of:

- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A);
- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit renewal when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited as an applicant or to be an operator, caregiver, or employee.

(E) Application forms for renewal of a statement of standard conformity or approval issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for approval renewal is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) No facility may employ or engage the services of an employee or a caregiver who has been convicted of one of the crimes listed in this section.

(G) Application forms for renewal of a statement of standard conformity or approval issued under this chapter by the department for individual public childcare centers or group childcare homes must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

SECTION 20-7-2820. Deficiency correction notices; public centers and homes.

Whenever the department finds upon inspection that a public childcare center or group childcare home is not complying with any applicable regulations, the department may notify the operator to correct the deficiencies.

a. Every correction notice must be in writing and shall include a statement of the deficiencies found, the period within which the deficiencies must be corrected and the provision of the subarticle and regulations relied upon. The period must be reasonable and, except when the department finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notice.

b. Within two weeks of receipt of the notice, the operator of the public childcare center or group childcare home may file a written request with the department for administrative reconsideration of the notice or any portion of the notice.

c. The department shall grant or deny a written request within seven days of filing and shall notify the operator of the childcare center or group childcare home of the grant or denial.

d. In the event that the operator fails to correct any deficiency within the period prescribed for correction, the department shall notify the appropriate public officials.

SECTION 20-7-2830. Review meeting; public centers and homes.

a. An applicant or operator who has been denied approval or renewal of approval by the department must be given prompt written notice of the denial, which shall include a statement of the reasons for the denial. The notice must also inform the applicant or operator that it may, within thirty days after the receipt of the notice of denial, appeal the denial by making a written request to the director or his designee for an opportunity to show cause why its application should not be denied.

b. Upon receiving a written petition, the director or his designee shall give the applicant or operator reasonable notice and an opportunity for a prompt, informal meeting with the director or his designee with respect to the action by the department, and an opportunity to submit written material. On the basis of the available evidence, including information obtained at the informal meeting and from the written material, the director or his designee shall decide whether the application must be granted for approval, provisional approval, or denied. The decision of the director or his designee must be in writing, must contain findings of fact and must be mailed to the parties to the proceedings by certified or registered mail. Notification of the decision must be sent to the Governor and appropriate officials of the state or local government.

SECTION 20-7-2840. Registration of family childcare homes.

(A) As used in this subarticle, "family childcare home" means a facility within a residence occupied by the operator in which childcare regularly is provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and the

children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family, or only for a combination of these children, is not a family childcare home.

(B) An operator of a family childcare home shall register with the department within six months of June 13, 1977.

(C) A family childcare home which elects to participate in a federal program which requires licensing as a prerequisite to participation may elect to be licensed under the procedures in Section 20-7-2850. A family childcare home electing licensing shall demonstrate compliance with the suggested standards developed by the department under Section 20-7-2980 and shall comply with provisions of Sections 20-7-2730 and 20-7-2740 relating to criminal history conviction records checks upon original licensing and upon renewal. Operators and caregivers of licensed family childcare homes are held to the standards in Sections 20-7-2730 and 20-7-2740 regarding criminal convictions.

(A) Registration must be completed on forms supplied by the department and in the manner it prescribes.

(B) Before becoming a registered operator the applicant shall:

(1) sign a statement that he has read the suggested standards developed by the department under Section 20-7-2980;

(2) furnish the department with a signed statement by each consumer parent verifying that the operator has provided each consumer parent with a copy of the suggested standards for family childcare homes and the procedures for filing complaints;

(3) upon request, provide the department with any facts, conditions, or circumstances relevant to the operation of the family childcare home, including references and other information regarding the character of the family childcare home operator.

(C) A person applying to become a registered operator of a family childcare home under this section and a person fifteen years of age or older living in the family childcare home shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal.

(D) No applicant may be registered as an operator if the person, an employee, a caregiver, or a person fifteen years of age or older living in the family childcare home has been convicted of:

(1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;

(2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;

(3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;

(4) the felonies classified in Section 16-1-10(A);

(5) the offenses enumerated in Section 16-1-10(D); or

(6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not operate to prohibit registration or renewal when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator, caregiver, employee, or to be living in the family daycare home.

(E) Application forms for registration issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for registration as operator or a person who applies for registration as an operator who has a person fifteen years of age or older living in the family childcare home who has been convicted of a crime enumerated in subsection (D) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(F) Application forms for registration issued under this chapter by the department and application forms for employment at a family childcare home must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

SECTION 20-7-2860. Statement of registration; family childcare homes.

(A) A statement of registration must be issued when the family childcare operator satisfactorily completes the procedures prescribed by this subarticle. The current statement must be displayed in a prominent place in the facility at all times and the registration number must be stated in all advertisements of the family childcare home.

(B) Registration expires at the end of one year from the date of issuance of the statement of registration. Registration may be renewed according to the procedures developed by the department.

(C) A person applying for renewal of registration as an operator of a family childcare home registered under this chapter and a person employed or providing caregiver services at a family childcare home registered under this chapter, who has not done so previously, on the first renewal after June 30, 1996, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

Application forms for registration renewal issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in Section 20-7-2850(D) who applies for registration as an operator or a person who applies for registration as an operator who has a person fifteen years of age or older living in the home who has been convicted of a crime enumerated in Section 20-7-2850(D) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(D) Application forms for registration renewal issued under this chapter by the department for a family childcare home must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who

applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(E) The department may withdraw the statement of registration if one or more of the following apply:

- (1) The health and safety of the children require withdrawal.
- (2) The facility has enrolled children beyond the limits defined in this subarticle.
- (3) The operator fails to comply with the registration procedures provided in this subarticle.

SECTION 20-7-2870. Visits upon expressed concerns by the community; family day care homes.

The department shall visit the facility when concerns are expressed by the community regarding the health and safety of the children, child abuse, or enrollment beyond the limits set forth in this subarticle.

- a. If the concern is in regard to the health and safety of the children, the department may call on other appropriate agencies (i.e., State Department of Health and Environmental Control, Office of the State Fire Marshal) as necessary to conduct an inspection.
- b. If the concern indicates that the child has been abused, the department shall carry out its responsibility as authorized under Article 7 of this chapter.
- c. If the visits and inspections verify conditions detrimental to the health and safety of the children or overenrollment, the department shall carry out its responsibility as authorized by Section 20-7-2860(C) and Section 20-7-3010.

SECTION 20-7-2880. Appeals; family childcare homes.

(a) A registrant whose statement of registration has been withdrawn by the department must be given written notice by certified or registered mail. The notice must contain the reasons for the proposed action and must inform the registrant of the right to appeal the decision to the director or his designee in writing within thirty calendar days after the receipt of the notice. Upon receiving a written appeal the director or his designee shall give the registrant reasonable notice and an opportunity for a prompt hearing before the director or his designee. On the basis of the evidence adduced at the hearing, the director or his designee shall make the final decision of the department as to whether the statement of registration must be withdrawn. If no written appeal is made, the statement of registration must be withdrawn as of the termination of the thirty-day period.

(b) At the hearing provided for in this section, the registrant may be represented by counsel, and has the right to call, examine, and cross-examine witnesses, and to otherwise introduce evidence. Parents appearing at the hearing may also be represented by counsel. The director is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or department. The final decision of the department must be in writing, must contain the department's findings of fact and rulings of law and must be mailed to the parties to the proceedings by certified or registered mail. A full and complete record must be kept of all proceedings, and all testimony must be reported and need not be transcribed unless the decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the

department shall furnish to any appellate, free of charge, a certified copy of the transcript of all evidentiary proceedings before it. Other parties shall pay the cost of transcripts.

(c) The decision of the department is final unless appealed by a party pursuant to the Administrative Procedures Act.

SECTION 20-7-2890. Consultation; family childcare homes.

The department shall offer consultation through employed staff or other qualified persons to assist a potential applicant, an applicant or registered operator in meeting and maintaining the suggested standards for family childcare homes.

SECTION 20-7-2900. Application of the law; church or religious childcare centers.

(A) No church congregation or established religious denomination or religious college or university which does not receive state or federal financial assistance for childcare services may operate a childcare center or group childcare home unless it complies with the requirements for registration and inspection and the regulations for health and fire safety as set forth in Sections 20-7-2910 through 20-7-2975 and requirements applicable to private and public childcare centers and group childcare homes for floor space, child-staff ratios, and staff training. Application for registration must be made on forms supplied by the department and in the manner it prescribes. Registration expires two years from the date of issuance of the statement of registration. Registration may be renewed according to the procedures developed by the department.

(B) Before issuing a registration, the department shall conduct an investigation of the applicant. This investigation is limited to:

- (1) the results of the criminal history review required by subsection (G);
- (2) the requirements for registration and inspection and the regulations for health and fire safety provided for in Sections 20-7-2910 through 20-7-2975; and
- (3) requirements applicable to private and public childcare centers and group childcare homes for floor space, child-staff ratios, and staff training.

(C) No license or registration may be issued to a church congregation, established religious denomination, or religious college or university if a person who provides service as an operator, caregiver, or employee at the childcare facility has been convicted of:

- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4) the felonies classified in Section 16-1-10(A);
- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not prohibit licensing, registration, or the renewal of a license or registration when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator, caregiver, or employee.

(D) Application forms for licensure or registration issued under this subarticle must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in this section who applies for a license or registration as operator is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(E) A person applying for a license or registration as an operator of a church or religious childcare center shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal.

(F) Application forms for licensure or registration issued under this chapter by the department and application forms for employment at a facility operated by a church congregation, established religious denomination, or religious college or university must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(G) A person applying for a license or registration as an operator of a church or religious childcare center or seeking employment or seeking to provide caregiver services at a church or religious childcare center shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal unless the renewal coincides with employment of a new operator, employee, or caregiver.

(H) A person applying for renewal of a license or registration as an operator of a church or religious childcare center licensed or registered under this chapter and a person employed or registered under this chapter, who has not done so previously, on the first renewal after June 30, 1996, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

SECTION 20-7-2902. Department prohibited from prescribing staff training and children's activities curricula.

Notwithstanding the staff training requirements of Section 20-7-2900(A) and (B)(3), the department may not prescribe the curriculum for staff training, other than curriculum addressing administration, child growth and development, and health and safety, for a church congregation, established religious denomination, or religious college or university, childcare center or group childcare home. Additionally, the department may not prescribe the content of curriculum activities for children provided by these childcare centers or group childcare homes.

SECTION 20-7-2905. Criminal history review charge.

For conducting a state criminal history review as required by this subarticle, the State Law Enforcement Division may not impose a fee greater than the fee imposed by the Federal Bureau of Investigation for conducting such a review.

SECTION 20-7-2910. Registration and inspection; church or religious childcare centers.

The childcare operator shall submit a formal request for inspection of the childcare facility to the department. The department shall request the appropriate state health and fire safety agencies to conduct an inspection of the facility before renewal of the registration and more often if necessary to ensure compliance with health and fire safety regulations. The department shall register the childcare facility upon notification from health and fire safety agencies that the childcare facility is in compliance with these regulations and the requirements of Section 20-7-2900.

The applicable regulations must be the same health and fire safety regulations applied to other facilities regulated under this subarticle.

SECTION 20-7-2915. Statement of registration; content; display; registration number to be stated in advertisements.

A statement of registration must be issued when the church or religious childcare operator or group childcare home operator satisfactorily completes the procedures prescribed by this subarticle. An application for a statement of registration must include the name and address of the director, the address of the facility, and the number of children who may be served. Failure of the department to approve or deny an application within ninety days results in the granting of a provisional registration. The current statement of registration must be displayed in a prominent place in the facility at all times, and the registration number must be stated in all advertisements of the church or religious childcare center or group childcare home.

SECTION 20-7-2920. Injunction; church or religious childcare centers.

The department may seek an injunction against the continuing operation of a childcare center or group childcare home in the family court having jurisdiction over the county in which the facility is located when the facility is considered to be out of compliance with the provisions of Sections 20-7-2900 and 20-7-2910.

SECTION 20-7-2930. Deficiency correction notice; church or religious childcare centers.

Whenever the health or fire safety agency finds upon inspection that a childcare center or group childcare home is not complying with the applicable regulations, the appropriate agency shall notify the department. The department shall then request the operator to correct such deficiencies.

a. Every correction notice must be in writing and must include a statement of the deficiencies found, the period within which the deficiencies must be corrected and the provision of the subarticle and regulations relied upon. The period must be reasonable and, except when the appropriate agency finds an emergency dangerous to the health or safety of children, not less than thirty days from the receipt of the notices.

b. Within two weeks of receipt of the notice, the operator of the facility may file a written request with the department for administrative reconsideration of the notice or any portion of the notice.

c. The department shall grant or deny a written request and shall notify the operator of action taken.

d. In the event that the operator of the facility fails to correct deficiencies within the period prescribed, the department may suspend the registration of the facility to be effective thirty days after date of notice. An appeal may be taken pursuant to the Administrative Procedures Act.

SECTION 20-7-2940. Appeals; church or religious childcare centers.

a. When the registration of a facility has been suspended, the operator must be given prompt written notice. The notice must indicate the reasons for the suspension and inform the operator of the right to appeal the decision through administrative channels to the department and according to established appeals procedure for the department.

b. Upon appeal, the decision of the department is final unless appealed by a party pursuant to the Administrative Procedures Act.

SECTION 20-7-2950. Repealed by 1993 Act No. 181, Section 1617(A), eff July 1, 1993.

SECTION 20-7-2960. Repealed by 1993 Act No. 164, Part II, Section 79A.H, eff July 1, 1993.

SECTION 20-7-2970. Penalties against church or religious childcare centers.

An operator violating the provisions of Sections 20-7-2910 through 20-7-2970 is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding one thousand five hundred dollars or imprisonment not exceeding six months, or both.

SECTION 20-7-2975. One caregiver required to have current certificate for first aid and CPR at childcare facilities.

During the hours of operation all childcare facilities, except registered family childcare homes, must have on the premises at least one caregiver with a current certificate for the provision of basic first aid and child-infant cardiopulmonary resuscitation.

SECTION 20-7-2980. Development of regulations and suggested standards by Department of Social Services.

a. The department shall with the advice and consent of the Advisory Committee develop and promulgate regulations depending upon the nature of services to be provided for the operation and maintenance of childcare centers and group childcare homes. The department with the advice of the Advisory Committee shall develop suggested standards which shall serve as guidelines for the operators of family childcare homes and the parents of children who use the service. In developing these regulations and suggested standards, the department shall consult with:

(1) Other state agencies, including the State Department of Health and Environmental Control, the Office of the State Fire Marshal, and the Office of the Attorney General.

(2) Parents, guardians, or custodians of children using the service.

(3) Child advocacy groups.

(4) The State Advisory Committee on the Regulation of Childcare Facilities established by this subarticle.

- (5) Operators of childcare facilities from all sectors.
- (6) Professionals in fields relevant to childcare and development.
- (7) Employers of parents, guardians, or custodians of children using the service.

Draft formulations must be widely circulated for criticism and comment.

b. The regulations for operating and maintaining childcare centers and group childcare homes and the suggested standards for family childcare homes must be designed to promote the health, safety, and welfare of the children who are to be served by assuring safe and adequate physical surroundings and healthful food; by assuring supervision and care of the children by capable, qualified personnel of sufficient number. The regulations with respect to licensing and approval, and the suggested standards with respect to registration of family childcare homes must be designed to promote the proper and efficient processing of matters within the cognizance of the department and to assure applicants, licensees, approved operators, and registrants fair and expeditious treatment under the law.

c. The department shall conduct a comprehensive review of its licensing and approval regulations and family childcare home suggested standards at least once each three years.

d. No regulations for childcare facilities may exceed policies or minimum standards set for public childcare facilities regulated under this subarticle.

e. The department shall submit final drafts of its regulations to the Legislative Council as proposed regulations, and the Administrative Procedures Act Sections 1-23-10 et seq., governs their promulgation.

f. The department shall establish a procedure for its representatives to follow in receiving and recording complaints. Standard forms may be produced and made available to parents and users of facilities upon request to the department. A copy of any complaint must be made available to the involved operator immediately upon his request.

SECTION 20-7-2990. Investigations and inspections by Department of Social Services.

a. In exercising the powers of licensing, approving, renewing, revoking, or making provisional licenses and approvals, the department shall investigate and inspect licensees and approved operators and applicants for a license or an approval. The authorized representative of the department may visit a childcare center or group childcare home anytime during the hours of operation for purposes of investigations and inspections. In conducting investigations and inspections, the department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields. The inspection of the health and fire safety of childcare centers and group childcare homes must be completed upon the request of the department by the appropriate agencies (i.e., Department of Health and Environmental Control, the Office of the State Fire Marshal, or local authorities). Inspection reports completed by state agencies and local authorities must be furnished to the department and become a part of its determination of conformity for licensing and approval. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of licensing, approving, renewing, revoking, or making provisional licenses and approvals.

b. Before issuing a license or approval the department shall conduct an investigation of the applicant and the proposed plan of care for children and for operating a childcare center or a group childcare home. If the results of the investigation satisfy the department that the provisions of this subarticle and the applicable regulations promulgated by the department are satisfied, a license or approval must be issued.

SECTION 20-7-3000. Consultation by Department of Social Services.

The department shall offer consultation through employed staff or other qualified person to assist applicants and operators in meeting and maintaining regulations.

SECTION 20-7-3005. Proof of conformity to zoning.

At the time of initial licensing, approval, or registration a childcare facility must provide proof of conformity or authorized nonconformity with county or municipal zoning ordinances or resolutions. The department may impose conditions on the license, approval, or registration consistent with restrictions imposed by zoning authorities.

SECTION 20-7-3010. Injunction sought by Department of Social Services

The department is empowered to seek an injunction against the continuing operation of a childcare facility in the family court having jurisdiction over the county in which the facility is located:

- (1) when a facility is operating without a license or statement of registration;
- (2) when there is any violation of this subarticle or of the regulations promulgated by the department which threatens serious harm to children in the childcare facility;
- (3) when an operator has repeatedly violated this subarticle or the regulations of the department.

SECTION 20-7-3020. Provisional registration, provisional license or provisional approval by Department of Social Services.

a. The department has power to issue a provisional registration, provisional license, or provisional approval only when the department is satisfied that (1) the regulations can and will be met within a reasonable time, and (2) the deviations do not seriously threaten the health or safety of the children. A provisional registration, provisional license, or provisional approval, may be extended for a period as may be determined by the department.

b. Except as noted in subsection c. of this section, no provisional license or provisional approval may be issued effective for any longer than one year.

c. Any facility granted a license or exempt from obtaining a license under the act previously in effect in this State and which does not qualify for a regular license under this subarticle must be granted a provisional license in accord with subsection a. of this section. The provisional license may be issued without regard to the time limit of subsection b. of this section. No provisional license issued under subsection c. is effective, either by its initial issue or by renewal, for a period greater than three years.

SECTION 20-7-3030. Compliance review by Department.

Upon request of an applicant or operator, the department shall offer consultation to address any aspect of compliance with this subarticle or the regulations promulgated under this subarticle. Consultation includes, but is not limited to, review and comment on drawings and specifications related to construction and renovations proposed by a facility.

SECTION 20-7-3040. Creation and membership of State Advisory Committee on regulation of childcare facilities.

a. A State Advisory Committee on the Regulation of Childcare Facilities is established. It consists of seventeen members appointed by the Governor, in accordance with the following:

(1) Five of the members appointed must be parents of children who are receiving childcare services at the time of appointment, with no less than three representing the entrepreneurial facilities.

(2) Eight of the members appointed must be representative of owners and operators of childcare facilities, one of which must be an operator of a childcare home. No less than five other appointees must be operators of facilities subject to regulation who are actively engaged in the operation for profit.

(3) One member appointed shall represent the educational community of the State.

Nominees for membership on the advisory committee pursuant to items (1), (2), and (3) must be made from lists furnished the Governor by South Carolina organizations representing the various types of childcare facilities defined in this subarticle.

(4) One member appointed shall represent the business community of the State. Nominees for membership pursuant to this item must be made from lists furnished the Governor by the South Carolina Chamber of Commerce.

(5) Two members appointed shall represent church-operated childcare centers, one of whom must be an operator of a church childcare center and one of whom must be a parent of a child who is receiving childcare services in a church-operated childcare center at the time of appointment.

b. Members shall serve for terms of three years and until their successors are appointed and qualify, except that of those initially appointed five shall serve for one year, five for two years, and five for three years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Reappointment to serve a full term may ensue at the discretion of the Governor, however, no member may be permitted to succeed himself after serving a full term.

c. The chairman of the committee must be designated by the Governor from among the appointees selected pursuant to the provisions of items (1) and (2) of subsection a. of this section.

SECTION 20-7-3050. Duties of advisory committee.

The State Advisory Committee on the Regulation of Childcare Facilities shall:

a. Review changes in the regulations and suggested standards proposed by the director or his designee and make recommendations on these changes to the director or his designee. The committee shall evaluate the regulations and suggested standards at the three-year review period (subsection c. of Section 20-7-2980) and recommend necessary changes. No regulation may be promulgated if the standard has been disapproved by a simple majority of the committee.

b. Advise the department regarding the improvement of the regulation of childcare facilities.

c. Advise the department on matters of regulatory policy, planning, and priorities.

d. As it considers necessary, hold a public hearing at least thirty days before adoption of the regulations.

- e. Plan with the department for the procedures to be used in notifying licensees, approved operators, and registrants regarding regulatory changes sixty days before intended promulgation.
- f. Maintain through the department the essential liaison with other departments and agencies of state and local government so as to preclude imposition of duplicate requirements upon operators subject to regulations under this subarticle.
- g. Act to move the adoption of its recommendations and other pertinent disposition of matters before it by decision of a simple majority of those members present and voting, provided there is a quorum of eight members.

SECTION 20-7-3055. Waiver of certain provisions for childcare facilities receiving federal funding.

The provisions of Sections 20-7-2980 and 20-7-3050(a) concerning the review authority and the promulgation of regulations and standards upon the advice and consent of the State Advisory Committee on the Regulation of Childcare Facilities are waived. However, nothing in this section affects the regulation of childcare facilities which choose not to receive federal funding.

SECTION 20-7-3060. Secretarial and administrative support for advisory committee.

The department shall provide reasonable secretarial and administrative support to the advisory committee.

SECTION 20-7-3070. Implementation.

In order to provide for the gradual implementation of the licensing, approval, and registration programs, each childcare facility not licensed under the act previously in effect in this State must apply to the department for licensing, approval, or statement of registration within six months of June 13, 1977. The department shall have one year from June 13, 1977 to take action to issue or deny license or approval of childcare centers and group childcare homes or issue a statement of registration to family childcare homes.

SECTION 20-7-3080. Daycare staff training on domestic violence.

The Department of Social Services in conjunction with existing training regulations shall make available to childcare owners and operators staff training on domestic violence including, but not limited to:

- (1) the nature, extent, and causes of domestic and family violence;
- (2) issues of domestic and family violence concerning children;
- (3) prevention of the use of violence by children;
- (4) sensitivity to gender bias and cultural, racial, and sexual issues;
- (5) the lethality of domestic and family violence;
- (6) legal issues relating to domestic violence and child custody.

SECTION 20-7-3090. Penalties.

A person violating the provisions of this subarticle is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding one thousand five hundred dollars or imprisonment not exceeding six months, or both.

SECTION 20-7-3092. Fingerprint reviews not required.

The fingerprint reviews required by this subarticle are not required of a certified education personnel who has undergone a fingerprint review pursuant to Section 59-26-40 or of a person licensed as a foster parent who has undergone a state and federal fingerprint review pursuant to Section 20-7-1640, and the results of these reviews have been submitted to the department and the person has remained employed since the review in certified education or licensed as a foster parent or the reviews have been conducted within the preceding year.

SECTION 20-7-3095. Unlawful to commit certain offenses within specified radius of childcare facility; penalties.

It is a separate criminal offense, and a felony, for a person to unlawfully commit any of the offenses listed in Chapter 3 of Title 16, Offenses Against the Person, a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency, or the crime of contributing to the delinquency of a minor contained in Section 16-17-490 while within a radius of one hundred yards of the grounds of a public or private childcare facility. A person who commits this offense must, upon conviction, be punished by a fine not to exceed ten thousand dollars or imprisonment not to exceed ten years or both, in addition to any other penalty imposed by law and not in lieu of any other penalty.

SECTION 20-7-3097. Fingerprint review of DSS personnel; provisional employment.

(A) Before the Department of Social Services employs a person in its childcare licensing or child protective services divisions, the person shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. No person may be employed in these divisions if the person has been convicted of or pled guilty or nolo contendere to any crime listed in Section 20-7-2725(A).

This section does not prohibit employment when a conviction or plea of guilty or nolo contendere for one of the crimes listed has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment.

(B) Notwithstanding subsection (A) or any other provision of law, a person may be provisionally employed in the childcare licensing or child protective services divisions upon receipt and review of the results of the State Law Enforcement Division fingerprint review if the results show no convictions of the crimes referenced in subsection (A). Pending receipt of the results of the Federal Bureau of Investigation fingerprint review, the department must obtain from the prospective employee a written affirmation on a form provided by the department that the employee has not been convicted of any crime referenced in subsection (A).

(C) A person who has been convicted of a crime referenced in subsection (A) who applies for employment with the childcare licensing or child protective services divisions is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

SECTION 20-7-3098. Day care violation citation; brochure explaining right to hearing and appeal.

At any time the department cites a childcare center, group childcare home, or family childcare home for a violation of this chapter or regulations promulgated pursuant to this chapter, the department shall provide the owner and operator of the center with a brochure stating, in language easily understood, the rights and procedures available to the owner or operator for a hearing in accordance with the department's fair hearing regulations and the rights and procedures available to appeal a decision rendered under the department's fair hearing process.

ATTACHMENT

B

PHASES OF LICENSING

▪ INTRODUCTION

Overview of the

Licensing Process

The licensing process is essentially concerned with the series of operational steps that may ultimately permit an Individual or organization to provide an otherwise prohibited activity. It is through licensing that government "controls entry into the given economic activity" (Schwartz, Administrative Law, p. 15)

The licensing process involves six distinct phases or operational steps:

1. Inquiry Phase
2. Application Phase
3. Inspection Phase
4. Licensing Issuance Decision Phase
5. Compliance Monitoring Phase
6. Renewal Phase ²

NARA Licensing Curriculum, Chapter 3: The Phases of Licensing

ATTACHMENT

C

SUPERVISORY STATEMENTS

Two Supervisory Statements
of Qualities Desired in a New Specialist

When I hire someone for this position I am looking for someone who is a quick learner, good with people, and has good communication skills, I have found if you have a background in child care or other regulatory positions, it really is an asset. There are so many regulations and laws to be enforced; a quick mind is needed to remember it all. The education level and the temperament of the people we work with vary from very base to most civilized, so your people skills are a real asset. Another personality trait I look for is an outgoing personality. There is so much dealing with the public that comes with the job; a specialist really needs patience and humor to deal with it all. These are the traits I look for in Specialists.

Linda Allen –Region I

This is what I look for in a new specialist.

A person who exemplify the following characteristics:

Loyalty, Respectfulness, Eager to learn, Knowledge of job responsibilities, a Good team player, Computer skills, and Time management.

Ella Gooden-Region III

ATTACHMENT
D
INFORMATION REQUESTS
&
SPECIALISTS' STATEMENTS

Initial Request for Information

I sent the following email to each specialist from whom I requested information on specialist's duties:

I am trying to do a project for my CPM Class. I would like to develop a brief and consistent training guide for a Child Care Specialist. I am asking a group of about eight specialists to write/type out for me the steps that they take to do new centers, renewals, supervisory visits and complaints. I like to get information from the people who actually perform the job so that I get it right. I want to start on this the first week in September if possible. I would appreciate it if you could help me with this. Thank you and let me know if this is a problem.

The following responses were received:

NEW CENTER	RENEWALS	SUPERVISORY VISITS	COMPLAINTS
Send appointment letter, showing exactly what I wish to review	Send appointment letter, showing exactly what I wish to review	Unannounced visit	Unannounced visit
Ensure new owner/director has Regulations, law	Same as new	Use supervisory visit form supplied to us from central	Receive complaint log into computer if not there, and make

and domestic violence codes		office, checking all ratios, supervision, and checking any safety concerns seen during visit and address any new staff and necessary files	unannounced visit
Get copy of centers policies and any forms parents complete	Same as new	Complete and input into computer	Address complaint with director on person in charge, checking all points complaint may address and check ratios and supervision
Receive copies of Director's info for qualifications	Only if change		Complete visit and input into computer, send defs letter if necessary and follow-up as needed
Receive copies of CPR and 1st aid	Same as new		

certification			
Ensure I have necessary fire, DHEC (clear any defs) and Zoning	Same as new		
Complete Provisional Evaluation on computer	Complete provisional and full evaluation in computer		

Lori Moody-

Region I

New Facilities: Upon, receiving an original (new) packet I will request a DHEC visit and instruct the owner/ /Director to contact the local fire department for an inspection. When the center receives a clear fire inspection, I will make an appointment to complete a DSS visit to measure the facility. I will call the director and inform her that in order to open the center that there must be 3 staff and that I will be picking up the following paperwork: The application (DSS form 2902), Zoning letter, three references (not needed for a church), state and federal background checks on each employee, and DSS forms 2901, 2925, 2926, and a TB test. I will need to see a copy of the First Aid and the CPR card to cover the operating hours of the center. The 2924's will need to be mailed to Columbia. I will explain that the following policies are needed: Discipline, Children's Records Confidentiality, Emergency Medication, Emergency Evaluation, ID Pick-up, Medication and Swimming, a copy of the menu, the activity schedules. Any deficiencies from DHEC will be corrected at this visit. The center will be measured and all the data will be entered into the computer if the director should have all of the above a Provisional License will be issued pending the Full Evaluation study.

Supervisory Visits: I maintain a list of Child Care Centers, Group Childcare Homes and Registered Churches in my caseload. A total of 2 unannounced visits are made to the facilities per year unless I need to complete a follow-up. During my visit to the facilities if I should find the center to be out of ratio, or have any other serious violations, the deficiencies will be written on a 2942 and explained to the director or the person in charge and the original copy will be left at the facility. This information will be entered into the computer and a letter will be mailed to the center restating the information on the 2942 with the regulation number(s) to verify the deficiencies. If the center should have a ratio problem I will make 2 additional unannounced visits to the center to verify that the ratios are correct.

Complaints: A complaint will be received by a letter, the telephone, e-mail, or in person. The complaint is entered into the computer at the time it is received. When accepting the complaint I will ask for the facility name, address, telephone number, directions to the center, the nature of the complaint, and the time of day that it happened. An unannounced visit will be made to the center to investigate the complaint. After making the visit, the complaint will be either founded or unfounded. If the complaint is of a serious matter I will have the person to contact OHAN. Also, if other deficiencies are cited at the time of the visit, I will write that on a 2942 and go over this with the director or the person in charge. A letter will be sent to the center re-verifying the deficiencies. This case will be monitored in the computer system for correction to be marked resolved. The complaint will be dictated in the file and the complaint information will be placed in the file under a tab for complaints.

Renewals: The renewal packet for centers and churches are mailed six months before the expiration date. The DHEC form is requested to be back in the regional office 15 days from receipt at the center. The director is asked to contact the local fire marshal for an inspection. The reason that I mail the packet so early is as follows: The DHEC inspector has up to 60 days to complete the inspection and I allow another 30 days for corrections. Then within the next month I am ready to do the renewal Study and if any paperwork should be missing, the director will still have 30 days to correct what is needed. The information will be entered into the computer and the center will be provided with a regular or provisional license.

Family Child Care Home: The renewal packet is mailed 3 months before the expiration date unless a 15 year old needs to be fingerprinted. I will send the facility number along with the packet. If fingerprints are needed, the operator is asked to return the packet to the regional office within 30 days from receiving the information. I closely check if there is an emergency person listed to make sure that fingerprints are available for the individual(s). If there is a move within the county I ask that a new zoning letter is turned in. Also, I check to make sure that the telephone number has not been changed.

Jo Ann Moon-Region I

Complaint: If it is received by phone I listen to the caller and determine if the complaint is regulatory. If it is something that I feel is regulatory, then I take the complaint and enter it into the system. If it is something that I need to staff with a supervisor, then I would do that. If necessary, I would refer the complaint to another agency, i.e. OHAN, etc. I visit the facility, identify myself if necessary, and inform the person in charge why I am there. I will visit each room to check the ratios and any other violations and would cite the center if necessary. I will discuss the complaint with the director or person in charge and also interview necessary caregivers. If the complaint is founded then I would have them sign the 2942 and ask if they have any questions. I would then write up the complaint and enter this into the system. Once the letter is sent, I would do a follow-up visit.

Supervisory visit: I review the file before the visit. Once at the facility, I identify myself and let them know why I am there. I visit each room, count the children, ask for caregivers names and look for any violations. I also inspect the playground, kitchen, and restrooms that are not in the classrooms. I ask about their transportation policy and check this. If the center has violations that have not been corrected from a previous visit I would check these. If the center has new staff, I would check each person's file. If any violations were found they would be documented on the 2942 and the person in charge would sign this. A copy is left with them. I answer any questions and let them know about any new regulations, forms, etc. An exit interview is conducted and the citations, if any, are addressed. After the citation letter is sent, then a follow up visit is made to verify the corrections.

Renewal: A renewal packet is mailed out 120 days in advance. I submit the fire request and DHEC check/ request is forwarded once that is received. I usually schedule my renewal when I send out the letter.

Once the DHEC inspection is received, then I will verify the date of the visit. Once at the center, I check each classroom, visit the playground, check for correction of DHEC citations, if any, and then I would start with the files. I review the policies, check each staff's file, check training, etc. I gather any paperwork that I need for my files, get copies of their policies, menu, CPR/FA cards, class schedules, etc. I check the children's files, looking for the necessary paperwork. If any of the paperwork is missing, for any part of the renewal, this would go on the 2942. I ask the director the questions on the system and go over with her if any of the paperwork is missing. The 2942 is signed and left with her. Once all paperwork is received and I have entered this into the system, either a provisional or regular license is issued.

New: After the application, zoning, and fire/DHEC requests have been received and, if necessary, submitted, then I would contact the provider and inform them that I would visit their facility after the inspections were received to conduct my inspection. I would verify correction of any DHEC citations during this visit. I would measure the facility including the playground. I would check the paperwork on at least 3 staff and bring back the necessary information (CPR/FA, references, diplomas, etc.) I would get a copy of their policies and also their schedule and proposed menu. This would be entered into the system and once all necessary paperwork was received, then a provisional license would be issued. Before the expiration date of the license, another visit would be made to check the children's files and files of any additional staff that has been hired. Also, any other citations that had been issued would be verified.

Marilyn Hager- Region II

For new centers I introduce myself to the new director and ask for a tour of the facility. If there are any DHEC deficiencies, I will check them to make sure they are corrected. I will measure the facility, then sit down with the director and collect paperwork. I also ask the questions off of the computer from the provisional evaluation. I give the director the first aid flip chart, shot chart and ratio chart to hang at the facility. I ask to see the first aid kit and make sure they have an exposure control plan in place. I make sure I have collected everything off my check sheet and ask if the director has any questions. I give them my card and let them know not to hesitate to call.

For renewal visits I do a walk through first. I check DHEC deficiencies if they have been corrected or I will let them know of any other deficiencies I see. I give them an opportunity to correct them. The ones they cannot correct, I write down on the 2942 form. I sit down with the director and collect all paperwork. I go down the check list, 2902, staff list, children's list, copies of CPR/BFA cards, copies of policies, menu and daily schedule. I collect the 2925 on the director. I get 2924's on all staff members. I make sure to verify the start dates of employment on all staff. I check staff files, up to 25 children's records. I write up any deficiencies on the 2942 form, make sure the director signs, and give the director the top copy and my card. I tell her to call with any questions.

For supervisory visits, I do a quick walk through the facility to check for any deficiencies. Then I check the two newest staff files. I only check children's file if an age of a child is in question. I do the supervisory visit form and the 2942 form. I give them my card. After the visit, I look up the deficiencies and do the letter.

For a complaint visit I let the provider know that a complaint is the reason that I am there. I let them read the complaint. I then check whatever the complaint was about. I do a quick walk through and have the director, or whoever is in charge, sign the 2942 form and give them my card and let them copy the complaint if they want. After the visit, I put all the information into the computer and do a letter if needed.

Patricia Palmer-Region III

Renewal Process:

1. Deliver renewal packet to provider 120 days prior to license expiration date,
(Technical Assistance given to provider on all new information.
2. Fire and DHEC request forms received.
3. Schedule renewal visit
4. Send letter to confirm renewal visit
5. Put info into system (staff names, start dates and fingerprint results.)
6. Go on renewal visit (using laptop when permissible)
7. Put remaining information in the CCL system.(complete staff information,
renewal information, and enter any cited deficiencies)
8. Check internet (deficiency manager to see if deficiencies are in the system)
9. Submit renewal paperwork to supervisor to be signed off.
10. A determination is made.
11. ALR is submitted to be mailed.
12. Documentation is made in the file.
13. Renewal study is filed properly in the file.

Supervisory Visit Process

1. Gather forms for supervisory visit prior to visiting the center.
2. Make visit to center for supervisory visit with laptop.
3. Greet director or designee, state that you are there for a supervisory visit.
4. Do a walk through by using the supervisory visit forms(check ratio, getting staff names and check for deficiencies)
5. Check new staff information in the files for fingerprint results, central registry and etc.
6. Write any deficiencies on the DSS form 2942.
7. Review deficiencies with director or designee.
8. Put the deficiencies in the CCL system and to make sure that they are on the website.
9. Have the director sign all forms prior to leaving the center.
10. Make documentation of visit in the file.
11. Do letter if deficiencies were cited.
12. Have supervisor to review letter and sign.
13. Mail letter to provider
14. Make documentation in the file
15. Place letter in the file.

Complaint process

1. Listen to complaint and write complaint on DSS form 2929.
2. Review complaint with supervisor.
3. Put the complaint information into the CCL
4. Make a complaint visit
5. Talk with the director or designee and state that you are here for a complaint.
6. State the nature of the complaint.
7. Do a walk through at the facility.
8. Talk with the director or designee about your findings.
9. Put the deficiencies in the CCL if any are cited and to check to see if they are posted on the website.
10. Have director to sign forms prior to leaving the center.
11. Make documentation of visit in the file.
12. Write finding on the back of the DSS form 2929.
13. Do letter if deficiencies were cited.
14. Have supervisor to review and sign letter and all other forms.
15. Mail letter to provider
16. Make documentation in the file
17. Place letter in the file

Marilyn Rice- Region III

Procedure: Renewals---Renewals are required every 2 years for all facilities except registered FCCHs. Renewals for registered FCCHs are required every year and completed by mail and do not require the same procedure as follows:

Prior to the Renewal:

Mail out renewal packet at least 120 days prior to the expiration date of the ALR.

Follow up with the facility to make sure requests for fire and DHEC inspections have been made in the appropriate time frame. Make sure the director sends in a check for \$60.00 with the DHEC inspection.

Forward the inspection requests to the appropriate DHEC office and fire inspector.

Keep a copy of the request forms and copy of the \$60.00 check made out to DHEC.

Keep a copy of all forms facilities may need, the regulations and the operating manual in the vehicle.

When you make the renewal onsite visit (and when making supervisory visits) you will have materials to offer technical assistance to the staff of the facility.

Schedule a date for the onsite visit for the renewal. It is preferred that this visit be at least 3 months prior to the expiration of the facility's ALR. (Quite often centers will procrastinate so many times this requires several phone calls to the director before the appointment is accomplished.) Also, some centers, ie. Head Starts close for the summer months. So, these directors must be reminded well in advance that the renewal should be completed prior to summer vacation if the license is to expire before the new school year.

Call to remind the director several days before the onsite visit and give opportunity to discuss
the renewal process

Prior to the onsite visit prepare the case file by filling out any forms used in the renewal "Application Review Checklist" and "Renewal Study" with as much information as possible. (Now I prefer to have this printed from the computer system so the director can review it, check off the items which gives them a review of the regulations. Then, I ask the director to sign and date this form so I have something in the file with their signature stating they have reviewed the regs. This process also allows for discussion of any regs. they do not understand or to address changes in the facility...i.e. if they are now offering transportation, what the transportation file should include, etc. Completing some of this paperwork prior to the visit will greatly reduce the time involved and gives the specialist more freedom to focus on observing staff and inspecting the facility.

Specialist should review the file prior to the onsite visit to determine if there are any outstanding deficiencies that must be checked i.e. DHEC deficiencies, supervisory visit and complaint visit deficiencies previously cited

Jane Brown-Region IV